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Congress of the United States

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MEMORANDUM FOR MEMBERS OF THE GOVERNMENT REFORM SUBCOMMITTEE ON REGULATORY AFFAIRS

FROM: Candice S. Miller, Chairman

DATE: Tuesday, June 7, 2005

SUBJECT: Briefing Memorandum for June 14, 2005 Hearing, "*Reducing the Paperwork Burden on the Public: Are Agencies Doing All They Can?*"

On Tuesday, June 14, 2005 at 2:00 p.m. in Room 2247 Rayburn House Office Building, the Subcommittee on Regulatory Affairs will hold a hearing to examine agency efforts to reduce the paperwork burden imposed on the public.

The hearing will focus on two different aspects of paperwork burden reduction: (1) Federal agency compliance with the Paperwork Reduction Act and (2) Federal agency efforts to reduce burden above and beyond what is statutorily required.

The Chief Information Officers (CIOs) from the Environmental Protection Agency (EPA), the Department of Labor (DOL), and the Department of Transportation (DOT) have each been invited to testify on their respective agency's efforts to reduce burden. Excluding the Department of Treasury, these three agencies together accounted for over 35%, or 557.4 million hours, of the total burden imposed on the public by the Federal government in FY2004. To put this figure into perspective, 279,000 employees would have to spend 40 hours per week, 50 weeks per year filling out paperwork just for these three agencies.

Attempts to Decrease Burden: The Paperwork Reduction Act

Congress passed the Federal Reports Act (FRA) in 1942 to establish a centralized review function for proposed paperwork. Under the FRA, the Bureau of Budget, which became the Office of Management and Budget (OMB), determined whether an information collection by a Federal agency was necessary for the agency's performance.

In 1980, the Paperwork Reduction Act (PRA) replaced the FRA and established the Office of Information and Regulatory Affairs (OIRA) in OMB, whose principal responsibility is paperwork reduction. For information collections affecting more than 10 persons, an agency is

required by law to obtain OMB approval before proceeding with the collection, regardless if the collection is mandatory or voluntary. If OMB approves the collection, it assigns a control number and an expiration date, which is limited to no more than 3 years.

The PRA of 1980 had three major purposes with regard to information collections:

- Minimize the Federal paperwork burden for individuals, small businesses, state and local governments, and other persons;
- Minimize the cost to the Federal government of collecting, maintaining, using, and disseminating information; and
- Maximize the usefulness of information collected by the Federal government.

Despite the objectives of the PRA, the burden imposed on the public by Federal agencies continued to increase. As a result, Congress enacted minor changes to the law in 1986; and in 1995, the law's reauthorization included significant revisions. The 1995 amendments required every agency to establish a process under a senior official, currently known as the agency's Chief Information Officer, to review program offices' proposed collections for PRA compliance before it is submitted to OMB for approval. The CIO must also certify that each proposed collection submitted to OMB for review meets the act's 10 standards and provide support for these certifications. See Attachment 1 for a list of the 10 standards for an information collection outlined in the PRA. In addition, the 1995 amendments to the PRA established burden reduction goals of 10 percent for fiscal years 1996 and 1997, 5 percent for fiscal years 1998 through 2001, and annual paperwork reduction goals that reduced burden thereafter to the "maximum practicable opportunity."

GAO Report on Agency Compliance with the Paperwork Reduction Act

The Government Accountability Office (GAO) recently completed a report at the request of Chairmen Candice Miller and Tom Davis. This report will be released at the hearing, and GAO will testify on government-wide compliance with the Paperwork Reduction Act. In its report, the GAO concluded that, government-wide, agency CIOs generally reviewed information collections and certified they met the 10 standards of the PRA. However, GAO's analysis of 12 case studies at four agencies (IRS, Veterans Affairs, HUD, and DOL) showed that CIOs certified collections even though support for the standards provided by the agency was often missing or partial.

Paperwork Burden Imposed on the Public by Federal Agencies

The Department of Treasury, which includes the Internal Revenue Service (IRS), accounts for roughly 80% of the total government-wide burden imposed on the public. Excluding Treasury, the paperwork burden imposed on the public by Federal agencies was 1.565 billion hours in FY2004, representing a 360 million hour (29.9%) increase since FY2000. Despite reductions in burden following the passage of the 1995 PRA amendments, the non-Treasury burden now exceeds its FY1996 levels.

Categorizing Changes in Burden

The PRA requires OMB to annually report to Congress on the paperwork burden imposed on the public by the Federal government and efforts to reduce this burden. OMB classifies changes in burden into two broad categories: (1) *adjustments* and (2) *program changes*. Adjustments are essentially re-estimates of burden resulting from changes in the population affected by an information collection or more accurate estimations of the time required to comply with a particular collection. *Adjustments* do not reflect any change in actual burden for individuals who are required to fill out a form: It only reflects changes in total burden caused by a change in the number of respondents or a re-calculation of the time it takes to fill out a form. *Program changes*, on the other hand, can be classified into three sub-categories: (1) changes in burden due to lapses in OMB approval, (2) changes in burden due to statutory requirements, (3) and changes in burden due to discretionary agency action.

Environmental Protection Agency (EPA)

In FY2004, the paperwork burden imposed on the public by EPA was 142.4 million hours. Though EPA reduced its paperwork burden by 4.9 million hours last year, its FY2004 burden represents nearly a 20% increase in burden since FY1999 (from 118.9 million hours). In the past two years alone, program changes due to agency actions have ***increased*** EPA-imposed burden by 9.87 million hours, while adjustments during that time led to a 10.7 million hour decrease.

Department of Labor (DOL)

The paperwork burden imposed on the public by DOL was 164.2 million hours in FY2004 – an increase of 4.7 million hours from the prior year. However, the DOL-imposed burden on the public in FY2004 represents a ***decrease*** in burden of over 16% since FY1999 (196 million hours total hours of burden) and over 24% since FY1997 (216.8 million hours). This decrease in burden over the last couple of years can be attributed to a significant adjustment in FY2003, not agency-initiated efforts. In fact, agency actions over the past three years have actually added about 2.8 million hours.

Department of Transportation (DOT)

The burden imposed by DOT has risen dramatically in the past few years. For FY2004, DOT's paperwork burden was 250.8 million hours – up 113% since FY2000 (118 million hours). Nearly 64% of DOT's total burden comes from one collection due to revised "hours of service" regulations for commercial truck drivers. In April 2003, the Federal Motor Carrier Safety Administration within DOT issued a final rule for "hours of service." OMB approved the collection with a paperwork burden estimate over 160 million hours.

Agency Efforts to Reduce Burden

An underlying goal of the Paperwork Reduction Act is to minimize the Federal paperwork burden on the public. In preparation for its annual report to Congress regarding the paperwork burden imposed by Federal agencies, OMB asked agencies to provide "up to three initiatives

which have resulted in a cumulative burden reduction level of approximately 1% of total agency burden.” The Department of Labor submitted two initiatives that the agency expects to reduce burden by a combined 3 million hours. The Department of Transportation submitted two burden reduction initiatives with a combined reduction of roughly 157,500 hours. Finally, the EPA cited three burden reduction initiatives that would result in a burden reduction of approximately 1.3 million hours.

Government-wide, OMB received 43 examples of agency initiatives to reduce burden. Many of the initiatives cited by Federal agencies involve intensive program changes that require years to initiate. For example, E-government initiatives (which are required through the passage of the E-Government Act of 2002 and are a major element of the President’s Reform Management Agenda) require cross-agency coordination in many cases and an investment in information technology.

Despite the burden reductions mandated by the PRA and its 1995 amendments, there has been a dramatic increase in public burden; and agencies must do more. Though burden reduction can be accomplished in a piecemeal fashion by simply re-assessing individual collection efforts, agencies need to instill an attitude and environment at the program office level and throughout the entire agency to find ways to reduce public burden. The hearing will allow the Subcommittee to examine exactly what agencies are doing to reduce burden above and beyond the law.

Witnesses

The invited witnesses for the June 14, 2005 hearing are:

The Honorable Patrick Pizzella
Assistant Secretary for Administration and Management, U.S. Department of Labor

The Honorable Kimberly Terese Nelson
Assistant Administrator and Chief Information Officer, Environmental Protection Agency

The Honorable Daniel P. Matthews
Chief Information Officer, U.S. Department of Transportation

Linda D. Koontz
Director, Information Management Issues, U.S. Government Accountability Office

Sean Moulton
Senior Information Policy Analyst, OMB Watch

Witness TBD, on behalf of the Synthetic Organic Chemical Manufacturers Association

Attachment 1

The Paperwork Reduction Act (PRA) establishes 10 standards for Information Collection Requests (ICRs) prepared and submitted by Federal agencies. Following PRA amendments in 1995, an agency's Chief Information Officer (CIO) is to review an ICR and certify that it meets 10 standards and that the ICR provides support for these certifications.

The 10 standards are:

1. The collection is necessary for the proper performance of agency functions.
2. The collection avoids unnecessary duplication.
3. The collection reduces burden on the public, including small entities, to the extent practicable and appropriate.
4. The collection uses plain, coherent, and unambiguous language that is understandable to respondents.
5. The collection will be consistent and compatible with respondents' current reporting and recordkeeping practices to the maximum extent practicable.
6. The collection indicates the retention period for any recordkeeping requirements for respondents.
7. The collection informs respondents of the information they need to exercise scrutiny of agency collections.
8. The collection was developed by an office that has planned and allocated resources for the efficient and effective management and use of the information to be collected.
9. The collection uses effective and efficient statistical methodology (if applicable).
10. The collection uses information technology to the maximum extent practicable to reduce burden and improve data quality, agency efficiency, and responsiveness to the public.

Source: Paperwork Reduction Act, Pub. L. 104-13, 109 Stat. 173-4, §3506(c)(3).

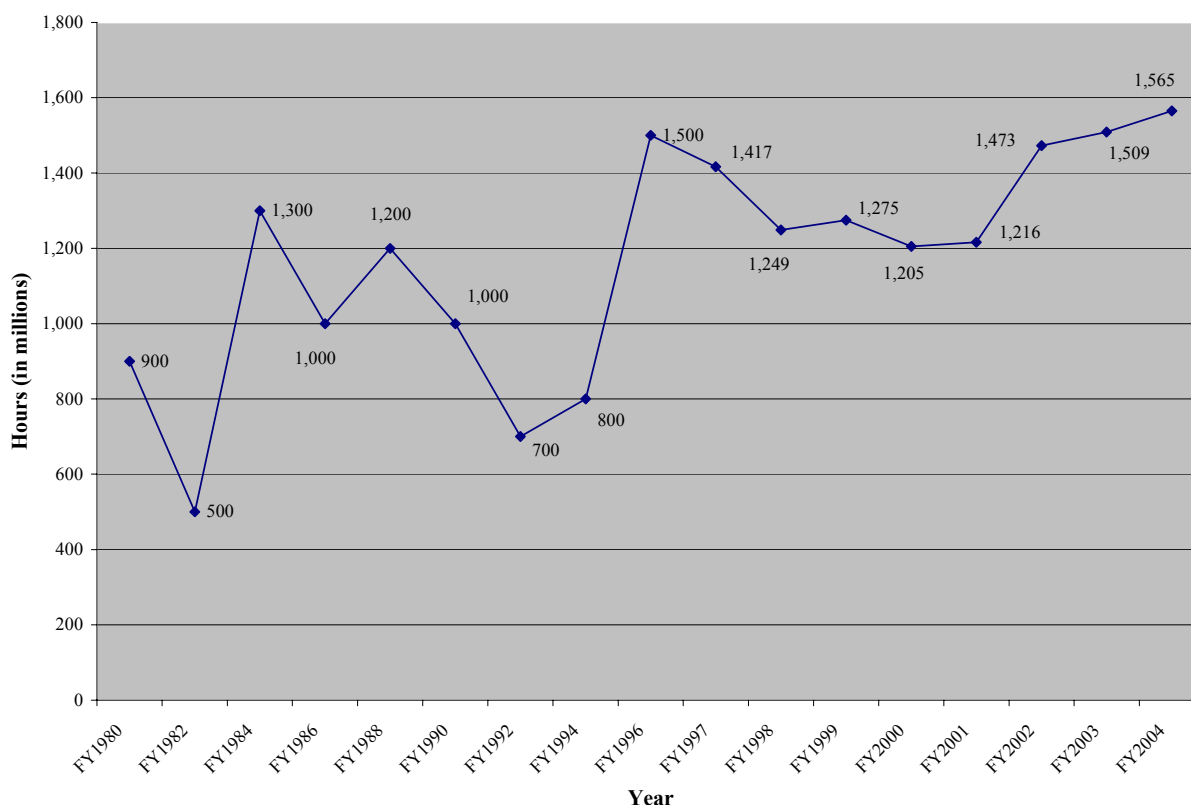
Attachment 2

Government-wide Paperwork Burden Since 1980 (Excluding the Department of Treasury)

Graph 1 shows the overall paperwork burden hours imposed by the Federal government, excluding the Department of Treasury, since the Paperwork Reduction Act of 1980 took effect.

In FY2000, there is a decrease of nearly 70 million burden hours from FY1999. However, over 96% of this burden reduction can be attributed to *adjustments* at the Department of Labor (a 16.52 million hour decrease) and the Department of Transportation (a 50.67 million hour decrease). Discretionary agency actions actually increased the non-Treasury burden by 17.1 million hours (1.3%) from FY1999 to FY2000.

Graph 1: Paperwork Burden Imposed by the Federal Government Since 1980, Excluding the Department of Treasury (in millions of hours).



Note: The PRA of 1995 defined a “collection of information” to include required disclosures of information by regulated entities to third parties and the public, effectively overturning a 1990 Supreme Court decision. The Court had ruled that the PRA of 1980 did not provide OMB with the authority to review agency regulations that mandate disclosure of information by regulated entities directly to third parties. The Court’s ruling led to a substantial drop in paperwork burden estimates in 1991. The definition established by the PRA of 1995 led to a dramatic increase in burden during that year as agencies are now required to include disclosures by regulated entities to third parties in their burden estimates.

Total Paperwork Burden Imposed by Selected Agencies Since 1997

Table 1 shows the total burden imposed by Federal agencies, excluding the Department of Treasury, since 1997. The table also displays the burden imposed by the EPA and the Departments of Labor and Transportation during this time.

Table 1: Total Burden Imposed by Federal Agencies Since 1997 (in millions of hours).

Year	Government-Wide Excluding Dept. of Treasury	Dept. of Labor	Dept. of Transportation	Environmental Protection Agency
FY1997	1,416.57	216.81	111.38	115.67
FY1998	1,249.16	199.00	138.75	119.18
FY1999	1,274.75	195.95	140.00	118.91
FY2000	1,204.92	181.59	117.65	128.75
FY2001	1,215.89	186.11	80.34	130.77
FY2002	1,472.74	189.22	244.73	140.47
FY2003	1,509.01	159.55	249.14	147.24
FY2004	1,565.00	164.21	250.79	142.36

Changes in Burden During the Past Three Years (Selected Agencies)

Table 2 shows the causes of change in paperwork burden for the past three years. Government-wide, program changes due to discretionary agency actions have increased the non-Treasury burden by 51 million hours (with nearly 44 million hours due to actions by the Securities and Exchange Commission in FY2004). In the past three years, agency actions at the EPA and the Departments of Labor and Transportation have increased public burden by nearly 17 million hours.

Table 2: Changes in Burden Imposed on the Public – FY2002 through FY2004 (in millions of hours).

		FY2002	FY2003	FY2004	Total
Government-Wide Excluding Dept. of Treasury	Total Burden	1,472.7	1,509.0	1,565.0	4,546.8
	Adjustments	17.8	39.4	-8.9	48.3
	Changes Due to Discretionary Agency Actions	7.1	3.8	40.1	51.0
	Changes Due to Statutory Program Changes	50.4	16.2	18.3	84.9
Dept. of Labor	Total Burden	189.2	159.6	164.2	513.0
	Adjustments	0.7	-29.8	4.2	-24.9
	Changes Due to Discretionary Agency Actions	2.4	-0.1	0.5	2.8
	Changes Due to Statutory Program Changes	0.1	0.2	0.0	0.2
Dept. of Transportation	Total Burden	244.7	249.1	250.8	744.7
	Adjustments	1.0	-2.0	-0.3	-1.4
	Changes Due to Discretionary Agency Actions	0.8	3.7	-0.5	4.0
	Changes Due to Statutory Program Changes	0.3	4.1	1.2	5.6
Environmental Protection Agency	Total Burden	140.5	147.2	142.4	430.1
	Adjustments	9.7	-3.3	-7.4	-1.0
	Changes Due to Discretionary Agency Actions	0.0	7.4	2.5	9.8
	Changes Due to Statutory Program Changes	0.1	2.7	0.0	2.7

Note: The totals in the right-hand column may seem to sum incorrectly. This is due to rounding using two decimal places.